

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

JOHN KEVIN WATSON

PLAINTIFF

v.

CIVIL ACTION NO.: 3:21-cv-26-KHJ-MTP

MARY CAROLE BRAND WATSON

DEFENDANT

ORDER

THIS MATTER is before the Court on the Motion for Issuance of Briefing Schedule and Exemption from Initial Disclosure and Confidential Memorandum Requirements [20] filed by the State of Mississippi (“the State”) and the Motion for Modification of Rule 16(a) Initial Order [22] filed by Plaintiff.

This divorce action was removed to this Court from the Chancery Court of Madison County, Mississippi due to the presence of a federal question. Plaintiff maintains that Mississippi’s irreconcilable differences divorce statute (Miss. Code Ann. § 93-5-2) violates the Due Process Clause and the Fourteenth Amendment of the United States Constitution because it requires the consent of both parties. *See* Complaint for Divorce [1-3] at 2. The State of Mississippi intervened to defend the constitutionality of the statute.

On April 6, 2021, the Court entered a Rule 16(a) Initial Order setting a telephonic case management conference for May 13, 2021. *See* [17]. Prior to the conference the parties were ordered to confer, serve initial disclosures, submit a proposed case management order, and submit a confidential memorandum to the Court that sets forth their respective positions. On the same day, Plaintiff filed a Motion for a Declaratory Judgment [18].

In response to both the Motion [18] filed by Defendant and the Court’s Order [17], the State moved the Court to enter a briefing schedule to extend its time to respond to Plaintiff’s Motion [18] and to exempt it from the initial disclosure and confidential memorandum

requirements. *See* [20] at 1. The State maintains that Plaintiff's Motion for a Declaratory Judgment [18] "implicates the important constitutional question of whether a state statute comports with the United States Constitution" and that "[h]aste is not merited here." [20] at 2.

Plaintiff also filed a Motion [22] to request modification of the Rule 16(a) order seeking exemption from initial disclosures and requesting that the Court waive the case management conference, proposed case management order, and confidential memorandum requirements. *Id.* at 2. Plaintiff opposes the State's Motion [20] arguing that "there is no just reason for delay" and that the other parties should not need additional time to respond to his Motion because both had briefed the issue four years prior. *See* [25] at 2. Defendant urges the Court to deny Plaintiff's Motion [22] and to schedule deadlines during the case management conference as it normally would. *See* [27] at 2.

Having considered the parties' submissions, the Court finds that the Rule 16(a) Initial Order should be amended as detailed below.

IT IS, THEREFORE, ORDERED that:

1. Motion for Issuance of Briefing Schedule and Exemption from Initial Disclosure and Confidential Memorandum Requirements [20] filed by State of Mississippi ex rel. Attorney General Lynn Fitch is GRANTED.
2. The deadline to file a response to Plaintiff's Motion for a Declaratory Judgment [18] is hereby suspended. The briefing schedule will be set at the telephonic case management conference on May 13, 2021.
3. The parties' obligation to serve initial disclosures is rescinded. Disclosures need not be made prior to the conference, but the parties should be prepared to discuss whether initial disclosures are necessary and what case management is required. If the Court determines that disclosures are needed, it will enter an appropriate order addressing the timing and content of such disclosures after the conference. Likewise, no party will be required to submit a confidential settlement memorandum prior to the case management conference. All parties are required to participate in the case management conference. After hearing from the parties at the case management conference, the Court will determine whether a case management order should be

entered and, if so, in what form.

4. The Motion for Modification of Rule 16(a) Initial Order [22] filed by Plaintiff is GRANTED in part and DENIED in part. The Motion is granted to the extent that Plaintiff need not serve initial disclosures or make other written submissions prior to the conference. All other requests contained in the Motion [22] are denied.

SO ORDERED this the 9th of April, 2021.

s/Michael T. Parker
UNITED STATES MAGISTRATE JUDGE